

**REMARKS**

Claims 1-20 are pending in this application, all of which have been rejected. No new claims have been added.

The Examiner has indicated that the Information Disclosure Statement ("IDS") filed February 15, 2005 lists a prior art reference which will not be considered because the complete reference number has not been supplied. Applicants' attorney telephoned the Examiner and pointed out to her that no IDS was filed on February 15, 2005, but that there was a first IDS filed on February 7, 2007 in which reference AA\* was not considered, and a second IDS was filed on December 19, 2007, in which the reference was correctly listed and supplied. The Examiner agreed, and indicated that no further action need be taken.

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent 6,879,783 to Nakahira (hereafter "Nakahira") in view of U.S. Patent Publication US 2001/0036202 to Watanabe et al (hereafter "Watanabe et al").

Applicants respectfully traverse this rejection.

Nakahira discloses a method for setting a cut-through optical path in an optical network system. At first, a destination side edge node device which confirms the transfer of a packet to a terminal accommodated by the present node device or to an access system network notifies the open resource information of the present node device to a transmission side edge node device. Then the transmission side edge node device determines the optimum allocation of an optical path to be set on the transfer route based on the open resource information notified by the destination side edge node device and the core node device. Then, according to the allocation optical path determined in the previous step, the transmission side edge node device, the core node device, and the destination side edge node device set the optical path which omits the packet transfer processing (layer 2 and layer 3 processing) in transit nodes.

Regarding claim 1, the Examiner urged that column 9, lines 10-13 disclose the claimed "packet transmission control section."

Applicants respectfully disagree. This passage discloses only that “a packet read from the destination-based buffer is transmitted to the cut-through optical path after setting.” There is no mention of any type of control section in this passage.

Further regarding claim 1, the Examiner has urged that column 24, lines 55-59 and column 23, lines 39-48 disclose that top priority is given to a semifixed initial path, as claimed.

Applicants respectfully disagree. The “priority” referred to in this passage does not relate to a priority of one path over many available paths, but instead refers to the priority of the purpose of the path selected, which is “efficient bandwidth utilization.”

Nakahira does not disclose or suggest the claimed “semifixed initial path,” let alone the technical idea of distribution packets with top priority given to such a semifixed initial path.

Regarding the limitation of “distributes the packets to the initial path and to dynamically allocated additional paths” recited in the packet transmission control section (claims 1 and 3) and the packet distribution step (claims 11 and 13), the Examiner refers to “Col. 13, lines 24-30 and lines 46-55, Col. 14, lines 7-27” of Nakahira and asserts “i.e. node control section comprising a cut-through request packet processing part for distributing or transferring packets and optical path allocation request packet for allocating paths” (claim 1), and refers to FIG. 11 of Nakahira and asserts “i.e. fig. 11 illustrates that a router for distributing packets to initial terminal, control function part, to the second switching device (OXC) via the buffer and switching function part” (claims 3, 11, and 13).

However, the portions of Nakahira referred to by the Examiner merely disclose allocating a cut-through optical path, requesting the setting of the cut-through optical path, and actually setting the cut-through optical path. Nakahira does not disclose or suggest distributing packets to a semifixed initial path and dynamically allocated additional paths, as claimed in the instant application.

Regarding the limitation of “controls allocations of the additional paths based on distribution states of packet units” recited in the control section (claim 1), the second control section (claim 3), the step in which allocations of the additional paths are controlled (claim 11), and the second control step (claim 13), the Examiner refers to “Col. 14, lines 7-27” of Nakahira and asserts “i.e. Optical path switching and router control part for controlling the allocation in the node control section” (claim 1), and the Examiner also refers to “Col. 14, lines 7-20, Fig. 2” of Nakahira and asserts “i.e. path switching control part (2B4) for controlling the allocation of packets based on the allocation request packet” and “i.e. a step for controlling the allocation of path switching based on the allocation request packet” (claims 3, 11, and 13).

However, col. 14, lines 7-27 of Nakahira fails to disclose or suggest either distribution states of packet units, or controlling allocations of additional paths based on such distribution states.

Regarding the limitation of “with top priority given to a semifixed initial path” recited in the monitoring section (claims 2 and 3) and the step in which packets of input traffic are monitored (claims 12 and 13), the Examiner refers to similar portions of Nakahira and provides similar assertions as set forth for the above. Therefore, the foregoing arguments provided above also apply.

Regarding the limitation of “to the initial path and to dynamically allocated additional paths” recited in the monitoring section (claims 2 and 3) and the step in which packets of input traffic are monitored (claims 12 and 13), the Examiner refers to “Col. 13, lines 24-30 and 46-55, Col. 14, lines 7-27” of Nakahira and asserts “i.e. node control section comprising a cut-through request packet processing part for distributing or transferring packets and optical path allocation request packet for allocating paths” (claims 2 and 3). The Examiner also refers to FIG. 11 of Nakahira, and asserts “i.e. fig. 11 illustrates that packets distributed to different part of the device from the router,” and also refers to “Col. 12, lines 23-45, fig. 2” of Nakahira, and asserts “i.e. a node control section for monitoring or determining the allocated packets from the router” (claims 12 and 13).

The assertions for claims 2 and 3 are similar to those mentioned above, and thus the foregoing arguments also apply.

Regarding the assertions for claims 12 and 13, col. 12, lines 23-45 of Nakahira merely disclose determining whether a present node device is a transmission side edge node device, a core node device, or a destination side edge node device. Such a disclosure is irrelevant to the semifixed initial path and the dynamically allocated additional paths as recited in claims 2, 3, 12, and 13.

Regarding the limitation of "controls allocations of the additional paths based on distribution states of packet units obtained by the monitoring" recited in the control section (claim 2), the first control section (claim 3), and the step in which allocations of the additional paths are controlled (claim 12), the Examiner refers to "Col. 14, lines 7-27" of Nakahira and asserts "i.e. Optical path switching and router control part for controlling the allocation in the node control section" (claim 2). The Examiner also refers to "Col. 14, lines 28-43" of Nakahira and asserts "i.e. node control section comprising a router control part for controlling the allocation of the additional paths" (claim 3), and points out "Col. 14, lines 28-43, fig. 2" of Nakahira and asserts "i.e. a step for controlling the allocation of the additional path based on the determination part or monitoring unit" (claim 12).

However, as can be understood from the arguments set forth above, col. 14, lines 7-27 of Nakahira does not disclose or suggest controlling allocations of additional paths based on distribution states of packet units.

In addition, col. 14, lines 28-43 of Nakahira merely disclose releasing a cut-through optical path. Therefore it is apparent that such a recitation of Nakahira is irrelevant to allocations of additional paths.

The Examiner admits that "Nakahira does not specifically disclose distributing the packets in a predetermined order of priorities." However, the Examiner refers to "abstract, Col. 5, lines 5-10," and "Paragraph 6" of Watanabe and asserts "i.e. distributing or transmitting packets in a prioritized order."

However, in contrast to the Examiner's assertion, "distributing or transmitting packets in a prioritized order" is not recited in the independent claims. In addition, it is unclear to which portion "col. 5," lines 5-10 of Watanabe refer. The Examiner may have intended to refer to "page 5, left column," lines 5-10 of Watanabe instead. However, even if this is the case, all the portions of Watanabe referred to by the Examiner merely disclose that packets are transmitted to a line in a predetermined order to priorities.

In contrast, the independent claims of the present application substantially recite distributing packets to a semifixed initial path with top priority and distributing packets to dynamically allocated additional paths with a lower priority than that for the semifixed initial path. In other words, the independent claims of the present application give priorities among paths, and thus are clearly different from Watanabe, which provides priorities among packets.

Thus, the 35 U.S.C. §103(a) rejection should be withdrawn.

In view of the aforementioned amendments and accompanying remarks, claims 1-20, as amended, are in condition for allowance, which action, at an early date, is requested.

The Director is hereby authorized to charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account No. 04-1105.

Dated: May 27, 2008

Respectfully submitted,

By   
William L. Brooks  
Registration No.: 34,129  
EDWARDS ANGELL PALMER & DODGE  
LLP  
P.O. Box 55874  
Boston, Massachusetts 02205  
(202) 478-7376  
Attorneys/Agents For Applicant